

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NADINE JOACHIN,

Plaintiff,

-against-

AIG, THE UNITED STATES LIFE
INSURANCE COMPANY, SCOTT
PIERCE, and MIKAIL ALSAFA,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/16/2025

24-cv-4335 (MKV)

ORDER DENYING MOTION
FOR RECONSIDERATION

MARY KAY VYSKOCIL, United States District Judge:

Defendants' motion for reconsideration [ECF Nos. 11, 12] of the Court's Order Denying Defendants' Motion To Dismiss Without Prejudice [ECF No. 10 ("March Order")] is DENIED. While the Court erred in stating that Defendants did not file proof of service of their motion to dismiss, Plaintiff had not previously received notice of the Court's earlier order granting Plaintiff an opportunity to amend her complaint before such motion was filed and setting the deadline for her to file an opposition to Defendants' motion to dismiss [ECF No. 6]. The Second Circuit has admonished district courts to afford *pro se* plaintiffs special leniency. *See Sledge v. Kooi*, 564 F.3d 105, 109 (2d Cir. 2009). In particular, the Second Circuit has stressed, the Court ordinarily ought not dismiss a *pro se* Plaintiff's case without ensuring that she has had sufficient notice of the possibility of dismissal and an opportunity to cure her pleading and to oppose the motion to dismiss. *See Snider v. Melindez*, 199 F.3d 108, 113 (2d Cir. 1999); *Moroshkin v. Dietsche*, 2022 WL 16570779, at *1 (2d Cir. Nov. 1, 2022).

Plaintiff has now filed a notice of appearance in this action [ECF No. 16] in compliance with the Court's March Order. **The Court strongly encourages Plaintiff to consent to receive**

electronic notice of filings in this case.

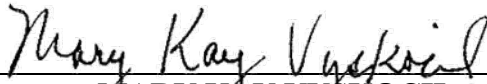
As the Court stated in the March Order, **Plaintiff must file any amended complaint by May 5, 2025. This is Plaintiff's final opportunity to amend to cure the deficiencies identified in Defendants' motion papers [ECF Nos. 7, 8, 9] or the Court's March Order. Failure to file an amended complaint by May 5, 2025 will be deemed a waiver of the opportunity to amend.** Defendants shall respond to any amended complaint within 14 days of its filing. If Defendants respond with a motion to dismiss, **Plaintiff shall file an opposition by June 23, 2025.** Any reply is due June 30, 2025.

IT IS FURTHER ORDERED that, **if Plaintiff chooses not to amend, Plaintiff shall file an opposition** to Defendants' previously-filed motion to dismiss, filed at ECF numbers 7, 8, and 9, by **May 5, 2025.** Because, as indicated above, Defendants did previously serve that motion on Plaintiff, the Court vacates its earlier ruling that Defendants must file a renewed motion with proof of service of the motion [ECF No. 10 at 2]. **Plaintiff is on notice that failure to file an opposition by May 5, 2025 may result in dismissal for failure to prosecute.**

The Clerk of Court respectfully is requested to terminate ECF number 11.

SO ORDERED.

Dated: April 16, 2025
New York, New York



MARY KAY VYSKOCIL
United States District Judge